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MEMORANDUM

TO: The Chair and Members of the Commission

FROM: Kevin Neilson, Regulatory Policy Administrator KDN

DATE: July 6, 2017

SUBJECT: IN THE MATTER OF THE APPLICATION OF CHESAPEAKE UTILITIES CORPORATION FOR APPROVAL TO REVISE ITS TARIFF IN COMPLIANCE WITH NEW FEDERAL REGULATIONS REGARDING EXCESS FLOW VALVES
(FILED MARCH 29, 2017) – PSC DOCKET NO. 17-0158

On March 29, 2017, Chesapeake Utilities Corporation ("Chesapeake" or the "Company") filed an application ("Application") with the Delaware Public Service Commission (the "Commission") seeking a change to its gas tariff to include language related to the installation of Excess Flow Valves ("EFV")s upon request by customers. Chesapeake claims that the proposed changes are being implemented in compliance with changes to 49 CFR §192.383 adopted by the Pipeline and Hazardous Materials Safety Administration ("PHMSA"). An EFV is a device that can reduce the risk of a gas leak or explosion in the event of damage to an outside service line. EFVs are designed to automatically reduce unplanned, excessive gas flows in the event of a broken gas line, often the result of excavation damage. EFVs are not compatible with all service lines, installations, and operating characteristics, and therefore, not all services are eligible for EFV installation. PHMSA has required Chesapeake, and other gas operators, to install EFVs on new or replaced residential service lines for some time. As pointed out in the Application, PHMSA's revised regulation requires gas operators to notify existing customers who are eligible for, but do not currently have, an EFV installed on their gas service line of their right to have an EFV installed. The revision also expands the type of new or replaced installation where EFVs are required. These changes to PHMSA's regulations became effective on April 14, 2017.

The proposed tariff revision would add paragraph "4.11, CUSTOMER REQUESTED EXCESS FLOW VALVES ON EXISTING SERVICE LINES" to P.S.C. Del. No. 4, Sheet

10, of the Company's tariff[1]. If the Application is approved, language would be added to Chesapeake's existing tariff which says that existing customers that request an EFV will be required to pay for the requested EFV installation. The proposed language indicates that the charge to the eligible customer "shall be the Company's estimated installed cost of the EFV installation, including applicable taxes." In addition, the added proposed language indicates that "[i]f the actual cost to install the EFV is greater than or less than the Company's estimated cost, no true up will be made either to the Company or the [c]ustomer." Finally, the added proposed language indicates that "[t]he Company does not guarantee or warrant the operation of the EFV."

Staff believes the requested tariff change is unnecessary and should be denied by the Commission. The request is unnecessary for the following reasons:

1. Staff believes it is inappropriate to charge customers for the installation of an EFV if one is requested by an existing customer. Staff sees this as a pipeline safety enhancement that should be provided to all of Chesapeake's customers equally whether installed on a new service, when a service line is replaced, or at a customer's request. In addition, EFVs not only provide greater safety to Chesapeake's customers, but they also provide safety to the neighbors in the area, as well. Leaking gas does not only leak into customer's homes; it can also find its way into any structure in the vicinity of the leak. The proposed tariff is discriminatory as it would allow new customers, and those where the service line is replaced, greater safety at no added upfront cost while those that want that same level of safety, but are existing customers and are not having their service line replaced, to pay for that same level of safety.

2. The tariff, as filed, is a policy issue. If allowed to go into effect as it is currently written it would place low income and disadvantaged customers and neighborhoods at greater risk to damaged service lines, since those customers and neighborhoods might not be able to pay for the added safety that an EFV could provide. Couple this with the earlier observation that EFVs not only help protect the customer but also help protect the customer's neighbors in situations where homes are close together, it becomes extremely obvious that giving customers the opportunity to take advantage of an EFV at no direct upfront cost promotes pipeline safety and is good public policy. Also, these same customers that are being asked to pay for an EFV, if they request one, are already paying for other customer EFVs that have been installed on new or replaced service lines, thus providing those customers and neighborhoods greater safety, because those costs are in the Company's rates. Staff also believes that customers should not be discriminated against solely due to the age of their service line when it comes to safety just because their service line was installed prior to the rule being implemented.

3. Staff does not believe there will be a great number of EFV installations requested, due in part to the fact that the notification requirement is minimal, so allowing

[1] Although the filed tariff sheet makes a change from "Second Revised Sheet No. 10" to "Second Revised Sheet No. 11" Staff believes this is a typo and the new tariff sheet will be the Third Revised Sheet No. 10.

existing customers to get an enhanced level of safety at no direct upfront cost should not result in a large Company investment. Also, the Company has not shown any evidence that it would. In fact, Chesapeake's response to Staff's informal data requests indicates that the Company estimates that there are approximately 20,000 services on Chesapeake's gas system that do not have EFVs. Staff understands that PHMSA estimated that 0.4% of eligible customers will take advantage of the added safety of an EFV under its new regulation. If that estimate is accurate Chesapeake can anticipate receiving approximately 80 requests for EFV installations from its customers. In response to informal data requests from Staff the Company indicated that the cost for installation of EFVs will range from $700 to $5000. In response to PSC Gen 3 the Company used a simple average of the estimated high end of the range and the low end of the range to arrive at an average cost of $2850 per EFV installation[2]. Given this estimate provided by Chesapeake, Staff calculates the total cost, if all of the estimated 80 customers request an EFV, to be $228,000. While this is no small amount, it could easily be recovered through the normal rate process. In fact, the amount could be somewhat less as Staff does not know the number of customers that might need their service line replaced through normal maintenance procedures, and in turn, automatically receive an EFV at no cost prior to making such request.

4. Staff believes the last sentence in the proposed tariff is also unnecessary as it does not appear that this sentence could provide any liability protection to the Company. It potentially creates a different set of rules for existing customers that request to have an EFV installed compared to customers that have EFVs installed simply because it is a new installation or the service line is replaced (even if, as Staff suggests, the language provides little if any additional liability protection to the Company.) A tariff is not the appropriate place to address this type of liability. Theoretically, every piece of Company infrastructure could fail to operate as specified, so why should this one piece of plant be singled out with language that says Chesapeake does not warrantee the operation of it? Also, the proposed language only applies to a subset of the same equipment that the Company is installing elsewhere, namely those EFVs where the existing customer requests installation.

Chesapeake has pointed to the fact that Pennsylvania and Maryland have recently adopted rules allowing utility companies to charge the customer the full cost of installing an EFV if one is requested. However, Pennsylvania has an aggressive service replacement program at which time EFVs are installed at no cost. There is at least one state (RI) that is not allowing the company to charge the customer and is socializing the cost. Some states are considering making the customer pay some set percentage of the installation cost. Some

[2] The Company's response to Staff's informal data requests PSC Gen. 3 and 4 do not specify if the estimate includes the CIAC Tax that would be required if customers are required to pay for the EFV installation. That tax will be avoided if the customer is not required to pay for the installation as requested in the proposed tariff.

states are considering a set amount to charge the customer (a copay) for installation that is a minimal portion of the cost (Nevada is considering 20%). Other states are considering charging the customer a set amount that is an average cost of the installation so that there is not a potential different cost for every single customer. Additionally some states are waiting to see what other states will do. Staff believes that the Commission should approve a solution that is best for the citizens of Delaware rather than rely on decisions made in other states.

In discussions with the Company, Staff had reached out and suggested that perhaps a compromise flat charge of somewhere between $100 and $500 for those customers requesting an EFV installation would be appropriate. This would deter those customers simply looking for a free installation while also not penalizing low income customers who are seriously concerned with the safety of their service. In addition, upon a customer request and where the company finds a bare steel or cast iron service needing replacement, the replacement installation and EFV would be at no cost to the customer. Where services were not in need of replacement, all costs over the flat fee would be socialized as part of the rate base. The Company declined this proposed compromise option.

In conclusion and without any compromise, Staff believes there is no need for the tariff change as filed. In fact, there is no need for a new tariff provision for EFVs at all. The Company can simply apply for inclusion of the costs as it has been for all the other EFVs previously installed. If, however, the Commission agrees with the Company that these devices should be treated differently because the customer is requesting it, the cost should be known and equal for all requesting customers within a customer class and should not be based on a Company estimated cost at the time of the request. Finally, if the Commission agrees with the Company that a new tariff provision is needed, Staff recommends that the last sentence in the Company's proposed tariff change be denied because it anticipates that customers are being treated differently with respect to Company liability just because they requested an EFV and are not on a new service line or their service line is not being renewed due to other gas piping changes.